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REMARKS

Applicants respectfully request reconsideration of this Patent Application, particularly in view of the above Amendment and the following remarks. No additional fee is required for this Amendment as the number of independent claims is not more than three, and the total number of claims is not more than originally filed.

Request for Telephone Interview

Applicants kindly request the Examiner to contact the undersigned at (847) 490-1400 to schedule a telephone interview, to discuss the merits of this Patent Application.

Amendment to the Specification

A replacement Third Substitute Specification and a marked copy showing the changes are enclosed for entry. This Third Substitute Specification includes the original changes of the previously unentered Substitute Specifications plus the changes noted on page 2 of the final Office Action. The Third Substitute Specification includes no new matter.

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Amendment to the Claims

Claims 1 and 23 have been canceled, without prejudice. New Claims 33-35 have been added, and find support in original Claim 1, and the description of Figs. 1-7. Dependent Claims have been amended to depend from Claim 33, and to correct the issues noted by the Office Action. No new matter has been added to the claims by this Amendment.

Claim Objection

Claims 4, 5, and 11 have been amended according to the suggestions on page 3 of the Office Action, thereby rendering the objections moot.

Claim Rejections - 35 U.S.C. §112

Claims 1-5 and 7-32 have been rejected under 35 U.S.C. §112, second paragraph, for the reasons set forth at pages 3-4 of the Office Action.

Claim 1 has been replaced with Claims 33 and 35, which clarify that the vertical frames connect to the cover elements as a rack that is separate and independent of the cabinet rack, as described in the Specification and shown in Figs. 6 and 7.

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Claims 3 and 11 have been amended for clarity, thereby rendering the rejections moot.

The term “solid” has been removed from Claim 3, thereby rendering the rejections of Claims 13, 15, and 17 moot.

Claim Rejections - 35 U.S.C. §103

The rejection of Claims 1-2, 24-25, and 27 under 35 U.S.C. §103(a) as being unpatentable over Jancsek, U.S. Patent 6,036,290, in view of Whipps, U.S. Patent 3,563,627, is respectfully traversed. Claim 1 has been canceled and replaced by new Claim 33.

Applicants’ claimed invention is a kit for producing frame structures for switchgear cabinets. The kit includes the following items: a cabinet rack, cover elements, a cabinet door, and vertical frames. Generally stated, the vertical frames can be assembled with the cabinet rack as an internal rack (e.g., shown in Fig. 6) or with the cover elements to form an independent rack that is separate from the cabinet rack (e.g., shown in Fig. 7).

The final Office Action states that because the claims are directed to a kit that can form alternative structures, the rejection “meets the limitations of the claims as it does refer to one of the configurations: (Page 20; *See also* page 4, lines

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1-4). The Office Action applies an incorrect standard, as a proper *prima facie* case of obviousness must include all recited components of the kit and a basis for the prior art combination. As best understood, the Office Action's combination of Jancsek and Whipps results in the rack of Jancsek having the top and bottom frame sections 12 and 14 of Whipps. In this combination, according to Whipps, the top and bottom sections would cover the entire frame structure of Jancsek, namely from and between all frame sections 42 and 44, respectively. This is not Applicants' recited claimed invention.

New Claim 33 recites that each of the vertical frames includes spaced apart cabinet rack fastening receivers, each of the cabinet rack fastening receivers connectable to one of the four horizontal depth struts of the cabinet rack. New Claim 33 also requires that each of the vertical frames includes spaced apart cover element fastening receivers, with each of the cover element fastening receivers connectable to one of the fastening edges of one of the cover elements.

The combination of Jancsek and Whipps does not provide or reasonably suggest Applicants' vertical frame structure having cabinet rack fastening receivers and cover element fastening receivers. There is no reasonable basis in the combination of Jancsek and Whipps to apply the top and/or bottom frame sections 42 and 44 to the internal subframe assembly 52 of Jancsek. As discussed above, Whipps discloses a covering for an entire rack structure, and thus, at best, one of

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ordinary skill in the art would have applied the coverings 12 and 14 of Whipps to the entire rack (namely over frame sections 42 and 44) of Jancsek.

The combination does not provide Applicants' recited vertical frames that include cabinet rack fastening receivers and spaced apart cover element fastening receivers. The combination also does not provide a kit including Applicants' recited vertical frames that are connected as an internal rack within the cabinet rack or to the cover elements as an independent rack that is separate and independent of the cabinet rack.

The above comments are also relevant to new independent Claim 35, which recites vertical frames that include horizontal broad frame struts with cabinet rack fastening receivers at each opposing end for connecting to one of the horizontal depth struts of the cabinet rack, and the vertical frames further including spaced apart cover element fastening receivers, each of the cover element fastening receivers for connecting to one of the fastening edges of one of the cover elements.

For at least these reasons, new Claims 33 and 35 are patentable over the combination of Jancsek and Whipps.

The rejection of Claims 3-5 and 7 under 35 U.S.C. §103(a) as being unpatentable over the Jancsek Patent in view of the Whipps Patent further in view of

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Fontana et al., International Publication WO 95/17803, is respectfully traversed. Claims 3-5 and 7 depend from Claim 33 and are patentable for at least the same reasons discussed above.

The rejection of Claim 8 under 35 U.S.C. §103(a) as being unpatentable over the Jancsek Patent in view of the Whipps Patent further in view of Ackermann, German Publication DE 198 37 184 A1, is respectfully traversed. Claim 8 depends from Claim 33 and is patentable for at least the same reasons discussed above.

The rejection of Claim 9 under 35 U.S.C. §103(a) as being unpatentable over the Jancsek Patent in view of the Whipps Patent further in view of the Ackermann Reference further in view of Marzec et al., U.S. Patent 6,238,029, is respectfully traversed. Claim 9 depends from Claim 33 and is patentable for at least the same reasons discussed above.

The rejection of Claims 10-14 under 35 U.S.C. §103(a) as being unpatentable over the Jancsek Patent, as modified by the Whipps Patent, the Ackermann Reference and the Marzec Patent, further in view of Kostic, U.S. Patent

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5,536,079, is respectfully traversed. Claims 10-14 depend from Claim 33 and are patentable for at least the same reasons discussed above.

The rejection of Claim 26 under 35 U.S.C. §103(a) as being unpatentable over the Jancsek Patent, as modified by the Whipps Patent, in further view of the Ackermann Reference, is respectfully traversed. Claim 26 depends from Claim 33 and is patentable for at least the same reasons discussed above.

The rejection of Claim 28 under 35 U.S.C. §103(a) as being unpatentable over the Jancsek Patent, as modified by the Whipps Patent, in further view of the Hobday Publication, is respectfully traversed. Claim 28 depends from Claim 33 and is patentable for at least the same reasons discussed above.

The rejection of Claim 30 under 35 U.S.C. §103(a) as being unpatentable over the Jancsek Patent, as modified by the Whipps Patent, in further view of French, U.S. Patent 4,579,400, is respectfully traversed. Claim 30 depends from Claim 33 and is patentable for at least the same reasons discussed above.

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The rejection of Claim 31 under 35 U.S.C. §103(a) as being unpatentable over the Jancsek Patent, as modified by the Whipps Patent, in further view of the Kostic Patent, is respectfully traversed. Claim 31 depends from Claim 33 and is patentable for at least the same reasons discussed above.

The rejection of Claim 32 under 35 U.S.C. §103(a) as being unpatentable over the Jancsek Patent in view of Hobday. WO 95/17803, is respectfully traversed.

Claim 32 requires two vertical frames installable in each of the cabinet rack or cover elements, and spaced apart and connectable to the cover elements separate from the cabinet rack to form a separate independent rack, with the cover elements forming a top element and a bottom element of the independent rack.

Jancsek discloses an internal subframe assembly 52, and Hobday discloses cover elements for a rack, but there is no reasonable basis in the combination for the subframe assembly 52 of Jancsek to be connectable to both the rack of Jancsek and the cover elements of Hobday (which would be applied to the full rack (frames 42/44) of Jancsek).

The final Office Action is not properly considering the structural elements of Applicants' claimed invention, namely vertical frames installable in each

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of the cabinet rack or cover elements. Instead the final Office Action improperly merely looks for one possible structure that can be produced by the kit.

For at least these reasons, Claim 32 is patentable over the combination of Jancsek and Hobday.

Allowable Subject Matter

Applicants thank the Examiner for the efforts in identifying that Claims 15-20 include allowable subject matter. Applicants believe other aspects of the invention are patentable as discussed above.

Conclusion

Applicants intend to be fully responsive to the outstanding Office Action. If the Examiner detects any issue which the Examiner believes Applicants have not addressed or resolved in this response, the undersigned attorney again requests a telephone interview with the Examiner.

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Applicants sincerely believe that this Patent Application is now in condition for allowance and, thus, respectfully request early allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'M. Swanson', with a horizontal line extending to the right.

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